IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT

JODHPUR.

O R D E R

Gurudutt Raj Bhansali. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 7013/2006

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Date of Order: May 18, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sanjeet Purohit, for the petitioner.
Mr. B.L. Tiwari, Deputy Govt. Advocate, for the respondents.

BY THE COURT:

By the instant writ petition, the petitioner seeks a direction to the respondents to reimburse the medical bills in respect of his treatment of Coronary Angiography and Off Pump Coronary Artery By-pass Surgery (OPBAC) in Bombay Hospital, Mumbai under the Scheme for grant of Medical Concession to State Government Pensioner vide Notification No.F.1 (6) FD (Rules)/2002 dated 19-12-2004.

I have heard learned counsel for the parties.

The facts and circumstances giving rise to the instant writ petition are that the petitioner is a retired State Government employee. He retired from the State Government service and the last post held by him was the Office Assistant in Public Works Department and as such he had been the regular subscriber of Rajasthan Pension Medical Fund and also in view of the Scheme for grant of Medical Concession to State Government Pensioners. In the month of January 2005, when he and his spouse went to Mumbai to meet their daughter, he developed some severe respiratory problem and severe chest pain and it was observed by the family members that the heart-beats of the petitioner were increasing and he felt acute breathlessness. Looking to his serious health condition, he was immediately taken to the nearest hospital, i.e. Bombay Hospital. The doctor immediately examined the petitioner and administered some medicines for immediate relief and suggested for various tests and also advised for Angiography. The Coronary Angiography was done on 15-1-2005 at Bombay Hospital. Ultimately the petitioner was operated with regard of Off Pump Coronary Aterty By-pass Surgery (OPBAC) The petitioner incurred the expenses for his treatment amounting to Rs.2,20,153/- and submitted the bills to the respondents for reimbursement under the Rajasthan State Pensioners Medical Concession Scheme (for short, "the Scheme" hereinafter) being a member of the said scheme. Vide order

Annx.4 dated 7-7-2005, the respondent No.3 denied the reimbursement of petitioner's claim on the ground that the said hospital where he underwent the treatment, including surgery, is not an approved hospital by the Government of Rajasthan. Hence this writ petition.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that though the Bombay Hospital, Mumbai is not the approved list of the Government of Rajasthan but still the petitioner is entitled for reimbursement of the amount incurred on his treatment in view of the provisions of the Scheme. Learned counsel has placed reliance on the decisions of this Court in Laxman Taneja Vs. The State of Rajasthan & ors., 2005 (3) Western Law Cases (Raj.) 451; and Anil Kumar Surolia Vs. State of Rajasthan & ors., 2005 (3) Western Law Cases (Raj.) 396.

Vide Notification No. F.1 (6) FD (Rules) 2002 dated 19-12-2004, by amending sub-paras 4B (i) and 4B (ii) of the Rajasthan Pensioners Medical Concession Scheme and re-numbering sub-para 4B (iii), new sub-para 4B(ii) has b een inserted therein, according to which a pensioner and his family members are entitled for actual cost of Angiography and Cornonary Artery By-pass surgery (OPBAC) subject to the maximum of Rs 48,000/- for by-pass Surgery + the amount

incurred on Angiography. In the instant case, the actual cost of expenses incurred by the petitioner on the Angiography and By-pass surgery is Rs.2,20,153/- and, therefore, learned counsel for the petitioner submits that as the maximum limit provided by the said Scheme is Rs.60,000/-, therefore, the petitioner is entitled for reimbursement of medical claim upto Rs.60,000/- for the Angiography and by-pass surgery incurred on his treatment. position has not been disputed by the learned counsel for the respondents.

Since the State Government has framed the Scheme. Viz. Scheme for grant of Medical Concession to State Government Pensioners for providing medical concession to State Government's pensioners, therefore, in my view, denial of reimbursement/ concession of the medical claim of the petitioner by the respondents only on the ground that the hospital where the petitioner underwent the treatment has not been approved by the State Government, is not justified and it cannot be an impediment for providing medical concession/reimbursement of petitioner's medical claim, to the extent permissible under the said Scheme, i.e. upto Rs.60,000/- and, therefore, the petitioner is entitled for reimbursement of the same to the extent of Rs.60,000/-.

In this view of the matter, the writ petition is allowed to the extent that the respondents are directed to reimburse the

medical bills to the petitioner to the extent of Rs.60,000/- as per the Scheme Annx.5 within two months from today. There shall be no order as to costs.

(H.R. PANWAR), J.

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